

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

For Online Publication Only

JAMES A. TOMASSI,

Plaintiff,

-against-

ORDER

15-CV-3652 (JMA) (AKT)

NASSAU COUNTY and NASSAU COUNTY
SHERIFF.,

Defendants.

X

AZRACK, United States District Judge:

Pro se plaintiff James A. Tomassi (“Plaintiff”) brings this action against defendants Nassau County and the Nassau County Sheriff (the “Defendants”) for damages connected to injuries he sustained during a physical altercation with another inmate while incarcerated at the Nassau County Correctional Center, and an alleged failure to be provided with proper medical care. (See ECF No. 7.) The parties filed cross-motions for summary judgment which I referred to Magistrate Judge A. Kathleen Tomlinson for a Report and Recommendation on December 7, 2018.

On March 15, 2019, Judge Tomlinson issued a Report and Recommendation (the “R&R”) recommending that: (1) Defendants’ motion for summary judgment be GRANTED; (2) Plaintiff’s motion for summary judgment be DENIED; and (3) Defendants’ motion to strike the affidavit of Carolyn Tomassi be GRANTED. (ECF No. 113.) On March 28, 2019, Plaintiff filed objections to the R&R. (ECF No. 115.) Having conducted a review of the full record and the applicable law, I adopt Judge Tomlinson’s R&R in its entirety as the opinion of the Court.

In reviewing a magistrate judge’s report and recommendation, the court must “make a *de novo* determination of those portions of the report or . . . recommendations to which

objection[s][are] made.” 28 U.S.C. § 636(b)(1)(C); see also *Brown v. Ebert*, No. 05-CV-5579, 2006 WL 3851152, at *2 (S.D.N.Y. Dec. 29, 2006). The court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(C). Those portions of a report and recommendation to which there is no specific reasoned objection are reviewed for clear error. See *Pall Corp. v. Entegris, Inc.*, 249 F.R.D. 48, 51 (E.D.N.Y. 2008).

I have undertaken a *de novo* review of the record, the R&R, and the instant objections, and I agree with Judge Tomlinson’s comprehensive and well-reasoned R&R. Accordingly, the Court GRANTS the Defendants’ motions for summary judgment, DENIES the Plaintiff’s motion for summary judgment, GRANTS the Defendants’ motion to strike the affidavit of Carolyn Tomassi, and dismisses the amended complaint in its entirety. The Clerk of Court is directed to close this case and to mail a copy of this order to the *pro se* plaintiff.

The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this Order would not be taken in good faith, and therefore, *in forma pauperis* status is denied for the purpose of any appeal. See *Coppedge v. United States*, 369 U.S. 438, 444-45 (1962).

SO ORDERED.

Dated: March 29, 2019
Central Islip, New York

/s/ (JMA)
JOAN M. AZRACK
UNITED STATES DISTRICT JUDGE